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Attorneys for Defendant City and County  
of San Francisco

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

WILLIAM SETZLER,

Plaintiff,

v.

CITY AND COUNTY OF SAN  
FRANCISCO, a municipal corporation and  
DOES ONE through TEN, inclusive

Defendants.

Case No. 07-CV-05792-SI

**SUPPLEMENTAL REQUEST FOR  
JUDICIAL NOTICE IN SUPPORT OF  
DEFENDANT'S MOTION TO DISMISS  
FAC, MOTION TO STRIKE & MOTION  
FOR PROTECTIVE ORDER**

**DATE:** May 30, 2008  
**TIME:** 9:00 a.m.  
**DEPT:** Courtroom 10

TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Pursuant to Federal Rules of Evidence 201, Defendant City and County of San Francisco ("CCSF") requests that this Court take judicial notice of the following documents as set forth below. The Court may properly consider matters of public record, including reports, legislative actions and reports of administrative bodies. *Mack v. South Bay Beer Distributors, Inc.*, 789 F.2d 1270, 1283 (9<sup>th</sup> Cir. 1986). Moreover, the Court may take notice of judicial proceedings in other courts if they have a direct relation to the matters at issue in the proceeding. *United States v. Robinson Rancheria Citizens Council*, 971 F.2d 244, 248 (9<sup>th</sup> Cir. 1992). Accordingly, judicial notice is requested of the following:

1. Exhibit K: Order Requiring Additional Briefing and Setting Hearing in Plaintiff's Prior Writ Action
2. Exhibit L: San Francisco Ordinance No. 52-08;
3. Exhibit M: Plaintiff's Notice of Depositions

DATED: May 16, 2008

MEYERS, NAVE, RIBACK, SILVER & WILSON

By: /s/ Jesse J. Lad  
Jesse J. Lad  
Attorneys for Defendant

## **EXHIBIT K**

IMAGED  
OCT 25 2005

**FILED**  
San Francisco County Superior Court

OCT 25 2005  
GORDON PARKILL, Clerk  
BY: *[Signature]*  
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO  
DEPARTMENT 301

WILLIAM SETZLER,

Plaintiff,

vs.

MICHAEL HENNESSEY and THE CITY  
AND COUNTY OF SAN FRANCISCO,

Defendants.

313725

**ORDER REQUIRING ADDITIONAL  
BRIEFING AND SETTING HEARING**

Plaintiff William Setzler's Petition for Writ of Mandate came on regularly for hearing before the Honorable James L. Warren on July 18, 2005, in Department 301. Edward Faunce appeared on behalf of Plaintiff Setzler, and Anthony Grumbach appeared on behalf of Defendants Hennessey and the City and County of San Francisco (together, the "City"). Following the hearing, the Court took the matter under submission. Having considered the filed papers and the oral arguments presented, the Court orders the parties to submit additional briefing on the following issues:

1. What relevance, if any, does the Americans with Disabilities Act and the City's offer of a reasonable accommodation to Setzler have in this case? How can an employer return an

(F)  
10/25/05

1 employee to duty if that employee and the employer believe that the employee cannot  
2 safely and competently do his job? Does the language "not separate" in California  
3 Government Code Section 21153 require the City to reinstate Setzler to his previous  
4 position even if Setzler and his doctors believe that he cannot perform the duties of his  
previous position, or can the City return Setzler to any other position for which he is  
qualified?

- 5 2. When did Setzler's damages, if any, accrue, and what is Setzler's total amount of  
6 damages?

7 The parties are to file simultaneous, ten page briefs on these issues on or before  
8 November 10, 2005. The parties shall appear for a hearing on these issues on November 17,  
9 2005 at 9:30 a.m. in Department 301 (or any other date more convenient for counsel).  
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11  
12 IT IS SO ORDERED.

13  
14 Dated: 10/20/05

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28 By:  \_\_\_\_\_

James L. Warren  
Judge of the Superior Court

California Superior Court  
County of San Francisco  
Law & Motion Department • Room 301

WILLIAM SETZLER,

Plaintiff,

vs.

MICHAEL HENNESSEY, and CITY AND  
COUNTY OF SAN FRANCISCO,

Defendants.

No. 313725

**Certificate of Service by Mail  
(CCP § 1013a(4))**

I, Gordon Park-Li, Clerk of the Superior Court of the City and County of San Francisco, certify that:

1) I am not a party to the within action;

2) On OCT 25 2005, I served the attached:

**ORDER REQUIRING ADDITIONAL BRIEFING AND SETTING HEARING**

by placing a copy thereof in a sealed envelope, addressed to the following:

Edward Faunce  
Faunce, Singer & Oatman  
43020 Blackdeer Loop, Suite 206  
Temecula, CA 92590

Anthony Grumbach  
Deputy City Attorney  
Fox Plaza  
1390 Market Street, 5<sup>th</sup> Floor  
San Francisco, CA 94102

and,

3) I then placed the sealed envelope in the outgoing mail at 400 McAllister St., San Francisco, CA 94102 on the date indicated above for collection, attachment of required prepaid postage, and mailing on that date following standard court practice.

Dated: OCT 25 2005

By: GORDON PARK-LI, Clerk  
deputy

## **EXHIBIT L**



FILE NO. 071672

ORDINANCE NO. 52-08

[Public Works Code – landmark trees.]

**Ordinance amending Section 810 of the San Francisco Public Works Code to make clarifying changes, establish hearing notice provisions, and extend the term of temporary designation of nominated landmark trees; and making environmental findings.**

Note: Additions are single-underline italics Times New Roman;  
deletions are ~~striketrough italics Times New Roman~~.  
Board amendment additions are double underlined.  
Board amendment deletions are ~~striketrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Planning Department has determined that the actions contemplated in this Ordinance are in compliance with the California Environmental Quality Act (California Public Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 071672 and is incorporated herein by reference.

Section 2. The San Francisco Public Works Code is hereby amended by amending Section 810, to read as follows:

**SEC. 810. LANDMARK TREES.**

(a) Designation Criteria. The ~~Urban Forestry Council shall develop and recommend for adoption by the~~ Board of Supervisors in Resolution No. 440-06, Clerk of the Board of Supervisors File No. 060487, adopted uniform criteria for the designation of landmark trees, which ~~criteria shall included~~ consideration of the age, size, shape, species, location, historical association, visual quality, ~~or and~~ other contribution to the City's character, as set forth Section 810(f)(4)(A)--(E) below. ~~Upon adoption by the Board of Supervisors, the~~ This designation criteria, which may be amended from time to time, shall apply to all trees within the territorial limits of the

Supervisor McGoldrick  
BOARD OF SUPERVISORS

1 City and County of San Francisco. ~~Pending adoption of criteria for designation of landmark trees,~~  
 2 ~~the Urban Forestry Council, affected City departments, and the Board of Supervisors shall rely on the~~  
 3 ~~general criteria set forth in Section 810(f)(4)(A)–(E).~~

4 (b) Designation Process.

5 (1) Nominations. A tree may be nominated for designation as a landmark tree by any  
 6 of the following parties: (i) the property owner whose property contains the subject tree by a  
 7 written request to the Urban Forestry Council; (ii) the Board of Supervisors ~~by adoption of a~~  
 8 ~~motion declaring the intent to nominate a tree for landmark status or the~~ Planning  
 9 Commission, or Landmarks Preservation Advisory Board by adoption of a resolution of intent  
 10 to nominate a tree for landmark status; or (iii) the director of any City agency or department by  
 11 filing a nomination letter with the Urban Forestry Council. Each tree nominated for landmark  
 12 tree status shall be the subject of a separate individual nomination.

13 (2) Content of Nominations. Nominations shall be made in writing to the Urban  
 14 Forestry Council and shall include the basis for the nomination, which may address one or  
 15 more of the adopted designation criteria, including the factors listed below in Section  
 16 810(f)(4)(A)–(E) below; the lot, assessor's block, and street address of the subject property;  
 17 one or more pictures of the tree; and any other information that the nominating property owner  
 18 or entity believes would be pertinent to the nomination.

19 (3) Urban Forestry Council Hearing and Determination. The Urban Forestry Council  
 20 shall hold a public hearing on a nomination ~~within 60 days of receipt of a completed~~  
 21 nomination request, and shall determine whether the tree qualifies as a landmark tree  
 22 pursuant to the adopted designation criteria. ~~The Urban Forestry Council shall meet at least~~  
 23 ~~twice annually to consider such nomination requests.~~ After the conclusion of the public  
 24 hearing, the Urban Forestry Council shall adopt written findings that specify the basis for its  
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1 decision to approve or reject the nomination and shall forward these findings to the applicant  
 2 for the nomination and the affected property owner. If the Urban Forestry Council determines  
 3 that the subject tree meets the adopted designation criteria, it shall forward said decision to  
 4 the Director, as to a tree on private property, or to the subject City agency, commission or  
 5 department, as to a tree on City-owned property. If the Urban Forestry Council rejects the  
 6 nomination, the Council shall not accept a new request for the subject tree for three years  
 7 from the date of its decision. If the Urban Forestry Council determines that a tree qualifies as  
 8 a landmark tree, its written findings on the nomination ~~shall be forwarded~~, along with any  
 9 recommendations of relevant City agencies, commissions or departments, shall be forwarded  
 10 ~~within 30 days~~ to the Board of Supervisors for its consideration pursuant to Section 810(b)(4)  
 11 of this Article. If the Urban Forestry Council fails to forward said findings to the Board of  
 12 Supervisors within ~~90~~ 120 days of the Urban Forestry Council's receipt of the nomination  
 13 request, the Board of Supervisors may, in its discretion, schedule a public hearing on the  
 14 nomination, in which event, the failure of the Urban Forestry Council to forward said findings  
 15 within the ~~90~~ 120 day period shall constitute its approval of the nomination.

16 (A) If the nominated tree is on private or public property, the Council shall provide  
 17 mailed or delivered notice of the hearing to the subject property owner and all property owners and  
 18 residents adjoining the subject property where the tree is located at least seven (7) days prior to its  
 19 hearing. The Council, in its discretion, also may provide delivered notice of the hearing to  
 20 residents adjoining the subject property, posted notice, or both.

21 (B) If the subject property exceeds one (1) acre in size, the Council shall provide posted  
 22 notice in lieu of the mailed or delivered notice. Such notice shall be posted on at least two locations  
 23 on each block face(s) tangent to the subject property at least seven (7) days prior to its hearing.

1 (C) If the Council either delivers or posts notice in accordance with these provisions,  
 2 staff assigned to this task shall sign an affidavit, accompanied with any supporting material, stating  
 3 when and where the notice was delivered or posted.

4 (4) Designation. Upon the recommendation of the Urban Forestry Council, the Board  
 5 of Supervisors, by ordinance, may designate as a "landmark tree" any tree within the territorial  
 6 limits of the City and County of San Francisco that meets the adopted designation criteria, or  
 7 may rescind such designations. If the Urban Forestry Council does not issue findings in a  
 8 timely manner pursuant to Subsection (b)(3), the Board of Supervisors shall adopt its own  
 9 findings as part of the designation of a landmark tree.

10 (c) Landmark Tree Designation Recorded Notice and Official Book. Upon Board of  
 11 Supervisors designation of a landmark tree, the Department or affected agency shall record a  
 12 notice on the subject property concerning the landmark tree. The Department also shall  
 13 record the landmark tree designation in an official book entitled Landmark Trees. If the  
 14 landmark tree is a street tree under the maintenance responsibility of the Department, the  
 15 Department shall record the landmark tree designation in a separate section of the Landmark  
 16 Tree book that is reserved for those landmark trees under the maintenance responsibility of  
 17 the Department. The Department shall maintain this book for public review and update it on a  
 18 regular basis with the assistance of affected agencies.

19 (d) Temporary Designation of Landmark Tree Status.

20 (1) At the time a member of the Board of Supervisors introduces a ~~resolution of motion~~  
 21 declaring the ~~resolution of~~ intent to initiate a nomination and submits to the Clerk of the Board  
 22 of Supervisors the information required for a landmark tree nomination request as set forth in  
 23 Section 810(b)(2), the subject tree shall be temporarily designated as a landmark tree  
 24 ("temporary designation") and be subject to the provisions governing landmark trees set forth  
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1 herein while proceedings are pending on the landmark tree designation. At the time the  
 2 Planning Commission or Landmarks Preservation Advisory Board adopts a resolution of intent  
 3 to initiate a nomination, temporary designation of the subject tree shall occur. If the Director of  
 4 the Department or the director of any other City agency, commission or department initiates  
 5 landmark tree designation, temporary designation shall occur when the Urban Forestry  
 6 Council adopts a resolution determining that the subject tree qualifies for landmark tree status.  
 7 In addition, the Director of the Department shall have the authority to issue an emergency  
 8 order that temporarily designates a tree on private property or on any property under the  
 9 jurisdiction of the Department to prevent the immediate removal of a tree. Upon initiation of a  
 10 nomination pursuant to this Section, the entity initiating nomination shall immediately inform  
 11 the Director who shall immediately cause a notice to be provided to the relevant department  
 12 or private property owner informing them of the special permit and approval requirements  
 13 pursuant to Section 810(f).

14 (2) If ~~180~~ 215 days have elapsed from the date of temporary designation and final  
 15 action on landmark tree designation has not been completed, the temporary designation  
 16 status for the subject tree shall expire unless the Board of Supervisors adopts a resolution to  
 17 extend the temporary designation. Such extension shall not exceed 90 additional days.

18 (3) Although the subject tree ultimately may be designated as a landmark tree  
 19 sometime after expiration of temporary designation status, once the temporary designation  
 20 has expired or is rejected as set forth below in Subsection (5), the affected tree shall not be  
 21 subject to a new temporary designation for at least two years from the date of temporary  
 22 designation.

23 (4) The 215-day term of temporary designation or any additional term, if extended through  
 24 Board of Supervisors action pursuant to this Section, shall automatically be extended 30 additional  
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1 days from the date the Mayor either signs the ordinance designating the subject tree as a landmark tree  
 2 or the 10<sup>th</sup> day after the Clerk of the Board refers said ordinance to the Mayor and the ordinance is not  
 3 signed or vetoed.

4 (5) If the Board of Supervisors rejects a resolution of intent to initiate nomination of a  
 5 tree or the Urban Forestry Council rejects a nomination under subsection (b)(3), the  
 6 temporary designation shall automatically terminate.

7 (e) Zoning Administrator. The Zoning Administrator shall be required to identify  
 8 designated landmark tree(s) on proposed development or construction sites and to notify the  
 9 Urban Forestry Council and the Department or affected City agency, commission or  
 10 department. The Zoning Administrator and the Department or such other City Agency,  
 11 commission or department with jurisdiction, shall be required to impose measures to protect  
 12 such landmark trees on a construction site against damage to trunk, roots, and branches in  
 13 accordance with Section 808(c) of this Article. Removal of such trees shall be subject to the  
 14 rules and procedures for removal of landmark trees provided in this Section.

15 (f) Removal Criteria and Procedures.

16 (1) Removal Criteria. The Urban Forestry Council shall develop and recommend for  
 17 adoption by the Board of Supervisors uniform criteria, rules, and procedures governing  
 18 determinations to remove landmark trees. Removal criteria shall require consideration and  
 19 written findings on all of the factors related to the landmark tree as set forth in Section  
 20 810(g)(4), below, and shall not authorize the removal of a landmark tree unless the it  
 21 constitutes a hazard tree pursuant to Section 802(o). Public notice, in accordance with the  
 22 requirements of Section 806(a)(2), and a hearing shall be required.

23 (2) Removal on Private Property; Special Permit Required. A property owner who  
 24 desires a permit to remove a landmark tree shall apply to the Department on the designated  
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1 form. Such application must be accompanied by an administrative fee in accordance with a  
 2 fee schedule adopted by the Director. Except in the case of manifest danger and immediate  
 3 necessity, landmark trees on private property shall be removed only after the Director's  
 4 determination and issuance of a permit, following a public hearing. If the Director determines  
 5 that removal of a landmark tree is necessary or permissible in accordance with the adopted  
 6 removal criteria, the Director may impose such reasonable conditions on the permit for  
 7 removal as he or she deems necessary to compensate for the loss of the tree, including but  
 8 not limited to the replacement value of the tree, administrative costs, and contribution to the  
 9 Adopt-A-Tree Fund. The Director's determination shall be final and appealable to the Board of  
 10 Appeals. Any person seeking permission to remove a landmark tree must pay all costs related  
 11 to the permit process and public hearings. Pending adoption of criteria for removal of  
 12 landmark trees, the Department shall rely on the general criteria set forth in Section  
 13 810(f)(4)(A)–(F).

14 (3) Removal on City-owned Property; Special Approval Required. Removal of a  
 15 landmark tree(s) on City property under the jurisdiction of any City agency, commission, or  
 16 department shall be subject to the criteria, rules, and procedures adopted by the Board of  
 17 Supervisors pursuant to Section 810(f)(1), above, including the process for public notice and a  
 18 hearing prior to removal of the tree. After following said criteria, rules, and procedures, the  
 19 subject City agency, commission, or department shall make its decision on removal of a  
 20 landmark tree(s). Such decision is final and nonappealable. Pending the Board of  
 21 Supervisor's adoption of the criteria, rules, and procedures pursuant to Section 810(f)(1), the  
 22 agency, commission, or department shall follow the general criteria of Subsection (f)(4)(A)–(F)  
 23 and similar rules and procedures for removal of street trees as set forth in Section 806(c) and  
 24 for removal of hazard trees as set forth in this Section 806(a)(4). This Subsection shall not  
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1 supercede the Charter jurisdiction that has been granted to any City agency, commission, or  
2 department.

3 (4) Required Findings. As part of any determination that authorizes removal of any  
4 landmark tree, the City entity making such determination shall, in addition to the adopted  
5 removal criteria, consider and make written findings on each of the following factors related to  
6 the tree:

7 (A) Size, age, and species;

8 (B) Visual characteristics, including the tree's form and whether it is a  
9 prominent landscape feature;

10 (C) Cultural or historic characteristics, including whether the tree has significant  
11 ethnic appreciation or historical association or whether the tree was part of a historic planting  
12 program that defines neighborhood character;

13 (D) Ecological characteristics, including whether the tree provides important  
14 wildlife habitat, is part of a group of interdependent trees, provides erosion control, or acts as  
15 a wind or sound barrier;

16 (E) Locational characteristics, including whether the tree is in a high traffic area  
17 or low tree density area, provides shade or other benefits to multiple properties, and is visually  
18 accessible from the public right-of-way; and

19 (F) One or more criteria that qualify the tree as a hazard tree pursuant to  
20 Section 802(o).

21 (5) Emergency Removal on Private Property. In the case of manifest danger and  
22 immediate necessity, as determined by the Director, the Director may remove or require the  
23 responsible owner(s) to remove a landmark tree immediately. After such emergency removal,  
24 the Director shall provide written notice of the necessity for such action to the Board of  
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1 Supervisors and the Urban Forestry Council and shall also provide such notice to all  
2 interested San Francisco organizations and, to the extent practical, to the owners and  
3 occupants of properties that are on or across from the block face where the affected tree was  
4 removed. If the Department incurs any costs related to an emergency removal, said costs,  
5 including labor, equipment, materials, inspection services, and administrative costs, shall be  
6 an obligation owing by the responsible owner(s) to the City. Removal of a landmark tree  
7 pursuant to this Subsection is not subject to Section 810(f)(4) above.

8 (6) Emergency Removal on City-owned Property. In the case of manifest danger and  
9 immediate necessity, as determined by the director or general manager of the subject agency,  
10 commission, or department, the subject agency, commission, or department may remove a  
11 landmark tree within its jurisdiction immediately. After such emergency removal, the subject  
12 agency, department, or commission shall provide written notice of the necessity of such action  
13 to the Board of Supervisors, Urban Forestry Council and Department of Public Works and  
14 shall also provide such notice to all interested San Francisco organization and, to the extent  
15 practical, the owners and occupants of properties that are on or across from the block face  
16 where the affected tree was removed. Removal of a landmark tree pursuant to this Subsection  
17 is not subject to Section 810(f)(4) above.

18 (g) If a landmark tree(s) has been designated as part of a local historic district or  
19 landmark under Article 10 of the Planning Code, removal of such tree shall be subject to the  
20 procedures set forth in the Planning Code Article 10 in addition to the requirements of  
21 Subsection 810(f) above. In the case of a conflict between Section 810(f) and the Article 10  
22 designation, the more restrictive provisions shall apply.  
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1 APPROVED AS TO FORM:  
2 DENNIS J. HERRERA, City Attorney

3 By:   
4 John D. Malamut  
5 Deputy City Attorney  
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Supervisor McGoldrick  
BOARD OF SUPERVISORS



## City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

### Tails Ordinance

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**File Number:** 071672

**Date Passed:**

Ordinance amending Section 810 of the San Francisco Public Works Code to make clarifying changes, establish hearing notice provisions, and extend the term of temporary designation of nominated landmark trees; and making environmental findings.

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March 18, 2008 Board of Supervisors — PASSED ON FIRST READING

Ayes: 11 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

March 25, 2008 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

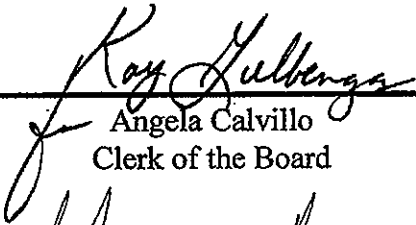
Absent: 1 - Alioto-Pier

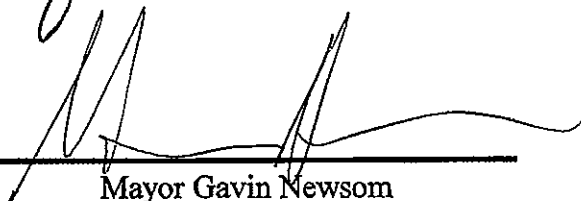
File No. 071672

I hereby certify that the foregoing Ordinance  
was **FINALLY PASSED** on March 25, 2008  
by the Board of Supervisors of the City and  
County of San Francisco.

3.31.08

Date Approved

  
\_\_\_\_\_  
Angela Calvillo  
Clerk of the Board

  
\_\_\_\_\_  
Mayor Gavin Newsom

File No. 071672

## **EXHIBIT M**

1 **STEPHEN F. HENRY, Esq.**

2 STATE BAR # 142336

3 2625 Alcatraz Avenue, # 615

4 Berkeley, California 94705

5 Telephone: (510) 898-1883

6 Facsimile (510) 295-2516

7 shenry@SHenrylaw.com

8 Attorney for Plaintiff

9 UNITED STATES DISTRICT COURT

10 FOR

11 THE NORTHERN DISTRICT OF CALIFORNIA

12 WILLIAM SETZLER

13 Plaintiff,

14 vs.

15 CITY AND COUNTY OF SAN FRANCISCO, a  
16 municipal corporation, and DOES ONE through  
17 TEN, inclusive

18 Defendant.

CASE NO: 07-CV-05792-SI

NOTICE OF DEPOSITIONS

19 TO DEFENDANT AND ITS ATTORNEYS OF RECORD:

20 PLEASE TAKE NOTICE that Plaintiff will take the deposition of the following persons  
21 pursuant to Rule 30 of the Federal Rules of Civil Procedure at the offices of Aiken & Welch, 1  
22 Kaiser Plaza, Ste. 505, Oakland, CA 94612, (510) 451-1580 at the dates and times stated. If the  
23 depositions are not completed on the date stated, the deposition will continue at such times as are  
24 specified by plaintiff's counsel after conferring with defendant's counsel. The deposition will be  
25 stenographically recorded by a certified shorthand reporter.

3/24/08

1) May 7, 2008 at 9:30 a.m.: The City and County of San Francisco is hereby requested and required, pursuant to FRCP 30(b)(6), to designate and produce a person or persons to testify on behalf of The City and County of San Francisco on the following matters: The contents of Plaintiff's personnel file and records maintained by the San Francisco Sheriff's Department regarding Plaintiff.

Said deponent is requested to produce a complete copy of all records and documents maintained by the San Francisco Sheriff's Department or any member thereof pertaining to William Setzler, including duplicate files, "mirror" files, and personal files regarding Mr. Setzler maintained by any person employed or formerly employed by the Sheriff's Department, including but not limited to Sheriff Hennessey and James Harrigan.

2) May 7, 2008 at 1:30 p.m.: The City and County of San Francisco is hereby requested and required, pursuant to FRCP 30(b)(6), to designate and produce a person or persons to testify on behalf of The City and County of San Francisco on the following matters: Records maintained by the San Francisco Retirement Board with respect to Plaintiff's applications for Industrial Disability Retirement between 1990 and the present.

Said deponent is requested to produce a complete copy of all records and documents maintained by the San Francisco Retirement Board with respect to Plaintiff's applications for Industrial Disability Retirement between 1990 and the present.

In addition, said deponent is requested to produce the following if in the possession, custody or control of Defendant:

A. March 14, 1990 Emergency Room report from Davies Hospital.

B. March 14, 1990 ambulance report regarding transportation of Plaintiff from Davies Emergency Room to the Emergency Room of San Francisco Children's Hospital.

C. March 14, 1990 Emergency Room report from San Francisco Children's Hospital.

1 D. March 22, 1990 report of Dr. Richard Coughlin.

2 E. July 2, 1990 report of Dr. Richard Coughlin.

3 F. July 9, 1990 report of Dr. Richard Coughlin.

4 G. The report of Dr. Miller, Neurologist, following the October 27, 1993 EMG of  
5 Plaintiff. This EMG took place at 3700 California Street, San Francisco (Children's  
6 Hospital, now part of California Pacific). The EMG was at 2:00 p.m. and registration was  
7 at 1:30 p.m.

8 H. All Workers' Comp RU-90 reports pertaining to Plaintiff.

9 I. All unedited video and sound recordings taken of Plaintiff by Defendant's private  
10 investigator(s) from 1990 to present including but not limited to the following dates:

11 March 16, 1993

12 March 29, 1993

13 March 30, 1993

14 May 7, 1993

15 November 19, 1993

16 December 9, 1993

17 February 4, 1994

18 February 11, 1994

19 February 15, 1994

20 J. All unedited video and sound recordings taken of Plaintiff by Defendant's private  
21 investigator(s) and used by private investigator, Gary Walden, to compile recordings  
22 dated:

23 May 2, 1996

24 May 3, 1996

25 February 17, 1998

26 March 14, 1998



1 3) May 14, 2008 at 9:30 a.m.: The City and County of San Francisco is hereby requested and  
2 required, pursuant to FRCP 30(b)(6), to designate and produce a  
3 person or persons to testify on behalf of The City and County of  
4 San Francisco on the following matters: All reasons why Plaintiff  
5 could or could not be accommodated in a position as Deputy  
6 Sheriff starting in June 2006.

7 Said deponent is requested to produce every document maintained by the San Francisco Sheriff's  
8 Department and the San Francisco Retirement Board with respect to any request for  
9 accommodation of a disability by Plaintiff, any consideration of a request for accommodation of  
10 a disability by Plaintiff, any offer of accommodation of a disability to Plaintiff, and any decision  
11 not to offer an accommodation of a disability requested by Plaintiff.  
12

13 4) May 14, 2008 at 1:30 a.m. : The City and County of San Francisco is hereby requested  
14 and required, pursuant to FRCP 30(b)(6), to designate and produce  
15 a person or persons to testify on behalf of The City and County of  
16 San Francisco on the following matters: Whether or not Plaintiff  
17 was placed on sick leave between 1990 and the date of his  
18 termination, what form of sick leave Plaintiff was placed between  
19 1990 and the present date of his termination if he was so placed,  
20 who made the decision to place Plaintiff on sick leave at any time  
21 between 1990 and the date of his termination if he was so placed,  
22 and the process by which Plaintiff was placed on sick leave at any  
23 time between 1990 and the date of his termination if he was so  
24 placed.

25 Said Person(s) Most Knowledgeable is requested to produce every document maintained by the  
26 San Francisco Sheriff's Department and the San Francisco Retirement Board pertaining to  
27 placement of Plaintiff on sick leave at any time between 1990 and the date of his termination.  
28

1 5) May 21, 2008 at 9:30 a.m. **James Harrigan**

2 The deponent is requested to produce every document maintained by him, the City and County  
3 of San Francisco, and its Sheriff's Department which supports the statements made by him in a  
4 Declaration dated September 16, 1998 pertaining to William Setzler and a Declaration dated  
5 June 21, 2005 pertaining to William Setzler.

6  
7 6) May 21, 2008 at 1:30 p.m. **Constance Menefee**

8 The deponent is requested to produce a complete copy of all records and documents maintained  
9 by the San Francisco Retirement Board with respect to Plaintiff's applications for Industrial  
10 Disability Retirement between 1990 and the present.

11 The deponent is also requested to produce a copy of Plaintiff's employment and personnel record  
12 maintained by the City and County of San Francisco and its Sheriff's Department, including a  
13 copy of those records that was produced to Plaintiff's attorney, Michael Hebel, on or around  
14 November 5, 2001 by the deponent.

15  
16 7) May 21, 2008 at 3:00 p.m. **Jill Figg**

17 The deponent is requested to produce every document maintained by the San Francisco Sheriff's  
18 Department and the San Francisco Retirement Board pertaining to placement of Plaintiff on sick  
19 leave at any time between 1990 and the date of his termination.

20 The deponent is also requested to produce a copy of Plaintiff's employment and personnel record  
21 maintained by the City and County of San Francisco and its Sheriff's Department, including a  
22 copy of those records that was produced to Plaintiff's attorney, Michael Hebel, in or around  
23 November 2001 by the deponent.

24  
25 DATED: March 28, 2008

26 By:   
27 STEPHEN F. HENRY  
28 Attorney for Plaintiff

**PROOF OF SERVICE**

I, Stephen Henry, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. My business address is 2625 Alcatraz Avenue, No. 615, Berkeley, California, 94705.

On March 28, 2008, I served the attached:

**Notice of Depositions**

on the interested parties in said action, by placing a true copy thereof in sealed envelope(s) addressed as follows:

Jesse Lad, Esq.  
MEYERS, NAVE, RIBACK, SILVER &  
WILSON  
555 12th Street, Suite 1500  
Oakland, California 94607

and served the named document in the manner indicated below:

☒ **BY MAIL:** I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), at Berkeley, California, for collection and mailing with the United States Postal Service, and in the ordinary course of business, correspondence placed for collection on a particular day is deposited with the United States Postal Service that same day.

☐ **BY OVERNIGHT MAIL:** I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), at Berkeley, California, for overnight mailing by the United States Postal Service,

☐ **BY FACSIMILE:** I caused true and correct copies of the above document(s) to be sent via facsimile to the addressee(s) on this date. The facsimile machine used complies with California Rule of Court 2003(3) and no error was reported by the sending facsimile machine. The transmission record for this facsimile complies with California Rule of Court 2003(6).

☐ **BY HAND DELIVERY:** I caused true and correct copies of the above document(s) to be placed within a sealed envelope or other package suitable for handling by a messenger or courier service and then caused the package to be hand-delivered by a same-day messenger service to the addressee(s) on this date.

☐ **BY EMAIL:** I caused true and correct copies of the above document(s) to be sent via email to the addressee(s) on this date.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed March 28, 2008, at Berkeley, California.